

FILED
Clerk
District Court

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

NOV - 9 2005

For The Northern Mariana Islands

*****By*****
(Deputy Clerk)

CR- 05-00025

November 9, 2005
4:30 p.m.

UNITED STATES OF AMERICA -v- VIVIAN MENDIOLA FLEMING

PRESENT: HON. ALEX R. MUNSON, Chief Judge Presiding
FAYE CROZAT, Official Court Reporter
K. LYNN LEMIEUX, Courtroom Deputy
JAMIE BOWERS, Assistant U. S. Attorney
STEVE PIXLEY, Counsel for Defendant
VIVIAN M. FLEMING, Defendant

PROCEEDING: SENTENCING

Defendant was present with her court appointed counsel, Attorney Steve Pixley. Government by Jamie Bowers, AUSA. Also present was U.S. Probation Officer, Melinda Brunson.

No objection by the government or defense of the presentence report.

Court adopted the presentence investigation report and instructed the Clerk to file the report, under seal, and that the report be made available if the judgment is appealed. The probation officer's recommendation shall also be placed under seal. No objection by the parties.

Government stated that they had filed for 5K1.1 motion for a downward departure from the sentencing guidelines and recommended 9 months imprisonment. Defense recommended the same term as the Government recommended and for her time remaining ; home detention.

Court granted the Governments 5K1.1 motion.

Defendant gave her allocution to the Court.

SENTENCE: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant **VIVIAN MENDIOLA FLEMING** is hereby sentenced to a term of imprisonment of **9 months** imprisonment with credit for time served. The defendant shall remain in the custody of the U.S. Marshal pending the designation of a U.S. Prison Facility off-island. Following sentencing, the defendant shall be placed on supervised release for a period of 36 months.

The term of supervised release will include the following conditions:

1. The defendant shall not commit another federal, state, or local crime;
2. The defendant shall not unlawfully possess a controlled substance and shall refrain from any unlawful use of a controlled substance. She shall submit to one drug test within 15 days of

release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer;

3. The defendant shall submit to the collection of a DNA sample at the direction of the U. S. Probation Office;
4. The defendant shall comply with the standard conditions of supervised release as set forth by the U.S. Sentencing Commission;
5. The defendant shall be prohibited from possess a firearm or other dangerous weapon or have such at her residence;
6. The defendant shall participate in a program approved by the U.S. Probation Office for substance abuse, which program may include testing to determine whether the defendant has reverted to the use of drugs. The defendant shall also make co-payment for the program at a rate to be determined by the U.S. Probation Office;
7. The defendant shall seek and maintain gainful employment; and;
8. The defendant shall complete 200 hours of community service under the direction of the U.S. Probation Office.

Court ordered that the defendant pay a \$100.00 assessment fee. All fines were waived.

No objection to the sentence by the attorneys. Defendant was advised of her right to appeal the sentence; if she or her attorney feel that there is a reason to appeal they must do so within 10 days. Further, the defendant was advised of her right to an attorney for appeal.

Defendant was remanded into the custody of the U.S. Marshal.

Adj. 5:15 p.m.


K. Lynn Lemieux, Courtroom Deputy